

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN COURT

Firearms Exchange, LLC,
Plaintiff,

v.

Hon.
Case No.

License No. 4-38-163-01-8M-03223

Bureau of Alcohol, Tobacco, Firearms and Explosives,
Defendant

Law Offices of James T. Simmons, P.C.
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PETITION FOR DE NOVO REVIEW

Plaintiff Firearms Exchange, LLC, files this Petition for De Novo Judicial Review of the revocation of its Federal Firearms License, pursuant to 18 U.S.C. 923(f)(3) and 27 C.F.R 478.78, and for its petition states as follows:

Jurisdiction and Venue

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. 1331, as it arises under the Constitution and Laws of the United States. This Court also has jurisdiction over the specific subject matter of this litigation pursuant to 18 U.S.C. 923(f)(3).

2. Venue is proper within the Eastern District of Michigan pursuant to 28 U.S.C. 1391(b), 19 U.S.C. 923(f)(3), and 27 C.F.R. 478.78. Plaintiff is located in the City of Westland, Wayne County, Michigan.

Parties

3. Plaintiff realleges all previous paragraphs as if fully set forth.
4. Plaintiff Firearms Exchange, LLC ("Firearms Exchange") is a Michigan limited liability company in good standing, with its principal place of business located at 1310 South Wayne Road, Westland, Wayne County, Michigan. Plaintiff has at all relevant times operated as a federally licensed dealer in firearms other than destructive devices, license number 4-38-163-01-8M-03223.
5. Defendant Bureau of Alcohol, Tobacco, Firearms and Explosives ("BATFE") is a law enforcement agency within the United States Department of Justice.

Facts

6. Plaintiff realleges all previous paragraphs as if fully set forth.
7. Firearm Exchange has operated as a federally licensed dealer in firearms other than destructive devices since November 8, 2005. Prior to that, Mr. Wah Wong, the principal partner in Firearm Exchange LLC, operated as a federally licensed dealer in firearms other than destructive devices since January 21, 2004, license number 4-38-163-01-7B-92188.
8. On February 5, 2007, BATFE agents conducted a compliance inspection at Firearm Exchange, and noted multiple documentation errors with regard to Form 4473

(Firearms Transaction Record). Other documentation errors were noted, including incorrect notations in the Firearm Exchange bound book of acquisitions and dispositions ("A&D book), and failure to report multiple handgun sales on BATFE form 3310.4. (Final Notice of Revocation, p. 6 - 7, attached.)

9. On January 11, 2008, the BATFE issued a Notice of Revocation of License, and served it on Firearm Exchange by certified mail. Firearm Exchange timely requested a hearing to review the revocation, pursuant to 19 U.S.C. 923(f)(2) and 27 C.F.R. 478.74. The hearing was held on June 10, 2008, at the BATFE offices in Detroit, Michigan.

10. On August 19, 2008, BATFE issued its Final Notice of Revocation of Firearms License, and served it on Firearm Exchange.

11. Firearm Exchange is dissatisfied with the BATFE decision and Final Notice of Revocation of Firearms License. and files this petition less than 60 days after the decision to revoke Firearms Exchange's license.

Authority and Argument for De Novo Review

12. Plaintiff realleges all previous paragraphs as if fully set forth.

13. Proceedings regarding issuance, renewal, and revocation of Federal firearms licenses are controlled by 18 U.S.C. 923 and 27 C.F.R. 478.71 - 478.78. 18 U.S.C. 923(f)(3) provides that, if after an administrative hearing, BATFE gives notice of its decision to revoke a licensee's license, the licensee may, within 60 days, file a petition with the United States district court for the district in which he resides or has his principal place of business for a de novo judicial review of such denial or revocation. Firearm Exchange denies some of the allegations made against it by BATFE in its

Findings and Conclusions, and also denies that any of the alleged violations were wilful.

THEREFORE, Plaintiff Firearm Exchange, LLC requests that this Honorable Court:

- a) grant Firearm Exchange, LLC a de novo review of the decision to revoke its Federal firearms license;
- b) find that Firearm Exchange, LLC has not willfully violated any provision of Title 18, Chapter 44 of the United States Code, or the regulations of the Bureau of Tobacco, Alcohol, Firearms and Explosives enacted thereunder;
- c) order the reinstatement of Firearm Exchange's Federal firearms license; and
- d) grant Firearm Exchange, LLC all other such relief, general and specific, in law or in equity, to which they may be entitled.

Respectfully Submitted,

Law Offices of James T. Simmons, P.C.

/s/ James T. Simmons

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